



January 5, 2001

Ms. Elaine S. Hengen  
Assistant City Attorney  
City of El Paso  
2 Civic Center Plaza  
El Paso, Texas 79901-1196

OR2001-0050

Dear Ms. Hengen:

You ask whether certain information is subject to required public disclosure under the Public Information Act, chapter 552 of the Government Code. Your request was assigned ID# 142912.

The City of El Paso received a request for information regarding people serving on city advisory boards and committees. You state that the city has already made most of the requested information available to the requestor. However, you claim that at least some of the requested telephone numbers, home addresses, and home e-mail addresses of city-appointed board, commission, and committee members are excepted from disclosure under section 552.117 of the Government Code. We have considered the exception you claim and reviewed the submitted representative sample of the information at issue.<sup>1</sup>

Section 552.117 of the Government Code excepts from required public disclosure information that reveals a public employee's home address, telephone number, social security number, or whether the public employee has family members, but only if the public employee has requested that this information be kept confidential under section 552.024. *See* Open Records Decision Nos. 622 (1994), 455 (1987). Moreover, a governmental body may not withhold the information of a current or former employee who made the request for confidentiality under section 552.024 *after* the request for information was made. Whether a particular piece of information is protected by section 552.117(1) must be determined at the time the request for that information is made. Open Records Decision No. 530 at 5 (1989).

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<sup>1</sup>We assume that the "representative sample" of records submitted to this office is truly representative of all of the information at issue. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach and, therefore, does not authorize the withholding of any other requested records to the extent that those records contain substantially different types of information than those submitted to this office.

You explain that most of the city's boards, commissions, and committees were established pursuant to city charters, and that the members of such boards, commissions, and committees generally serve without compensation. We believe that although these members do not receive salaries for their city service, they are still city "officials" for the purposes of section 552.117(1). Moreover, we believe that section 552.117 is broad enough to cover home e-mail addresses, home facsimile numbers, and personal cellular telephone numbers. The legislative history of section 552.117 makes clear that its purpose is to protect public employees or officials from being harassed at home. *See* House Committee on State Affairs, Bill Analysis, H.B. 1976, 69th Leg. (1985); Senate Committee on State Affairs, Bill Analysis, H.B. 1976, 69th Leg. (1985); *see also* Open Records Decision No. 506 at 5 (1988). With this purpose in mind, we conclude that a home e-mail address, home facsimile number, and personal cellular telephone number constitute "information that relates to" a person's home address or home telephone number, and are, therefore, within the scope of section 552.117. *Cf.* Open Records Decision No. 622 (1994) (in enacting section 552.117, the legislature intended to include former home addresses and telephone numbers in the phrase "information relating to the home address or home telephone number" of a public employee).

You state that the highlighted home addresses, home telephone numbers, personal e-mail addresses, and personal cellular telephone numbers belong to city officials who elected for confidentiality pursuant to section 552.024. To the extent that these officials elected for such confidentiality before the city received the instant request for information, the city must withhold the highlighted information under section 552.117(1).

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records

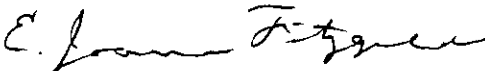
will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the General Services Commission at 512/475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



E. Joanna Fitzgerald  
Assistant Attorney General  
Open Records Division

EJF/er

Ref: ID# 142912

Encl: Submitted documents

cc: Ms. Tammy Fonce-Olivas  
El Paso Times  
P.O. Box 20  
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(w/o enclosures)